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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,087	01/13/2004	Jerry Iggulden	3944P013X	3552

8791 7590 03/17/2005

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EXAMINER

WOO, STELLA L

ART UNIT PAPER NUMBER

2643

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,087

Applicant(s)

IGGULDEN ET AL.

Examiner

Stella L. Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 5-6, 8-12, 15, 19, 23-24, 26-30, 33, 35-36, 38-43, 46, 50, 52-56, 59 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,256,378 in view of Kominami et al. (US 2003/0152088 A1, hereinafter "Kominami").

Claims 1, 5-6, 8-12, 15, 19, 23-24, 26-30, 33, 35-36, 38-43, 46, 50, 52-56, 59 recite the same subject matter as claims 1-2 of U.S. Pat. No. 6,256,378 except it does not recite the appliance as being a vehicle. However, Kominami teaches the desirability of setting programmable features of a vehicle using a web site (website 52) and transfer device (PDA 12) such that it would have been obvious to an artisan of ordinary skill to adapt the method of claims 1-2 in U.S. Pat. No. 6,256,378 for use with a vehicle, as taught by Kominami.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 8-12, 15, 19-22, 26-30, 33, 36, 38-43, 46, 50, 52-56, 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Kominami.

Regarding claims 1, 19, 36, 38, 50, Kominami discloses a method for setting a programmable feature of a motor vehicle (vehicle 10) comprising:

providing an interactive site on a global computer network (vehicle preference manager website 52);

establishing a connection with the interactive site (via computer 50 and Internet connection; page 4, paragraph 53);

interactively setting a programmable feature of the motor vehicle (user selects preference settings for vehicle accessory devices using software downloaded via website 52; page 4, para. 53);

providing a transfer device having an input port and an output port (PDA 12 includes an input port (connection to PC 50; Fig. 2) and an output port (transceiver 18 of PDA 12 connects with transceiver 16 of vehicle 10; page 2, para. 36; page 4, para. 54);

transferring set-up data (PDA 12 receives the data from the website via computer 50; page 4, para. 53);

transferring the set-up data from the output port of the transfer device to the motor vehicle (PDA 12 transmits user preference data to the vehicle 50 via transceiver 18; page 4, para. 54).

Regarding claims 2-4, 20-22, Kominami provides for hard-wired connections (page 2, para. 36; page 3, para. 42; page 4, para. 53).

Regarding claims 8, 26, 39, 52, preference data includes navigation system destination setting (page 5, para. 57, lines 11-12).

Regarding claim 9, 27, 40, 53, preference data includes a communication function (alarm, security, audio and display control setting; voice activation; page 5, para. 57).

Regarding claims 10, 28, 41, 54, preference data includes radio and TV station setting (page 5, para. 57, line 12).

Regarding claims 11, 29, 42, 55, preference data includes climate control (page 5, para. 57, line 8).

Regarding claims 12, 30, 43, 56, preference data includes user-assigned function (memory seat, memory mirror, adjustable steering column, etc.; page 5, para. 57).

Regarding claims 15, 33, 46, 59, preference data includes a display control setting (page 5, para. 57, line 11).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-6, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kominami in view of Elmers et al. (US 5,850,304).

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Kominami differs from claims 5-6, 23-24 in that it does not teach an optical sensor.

However, Elmers teaches the well known use of an optical sensor (photodetector within controller 12 receives light pulses from a computer display 11, converts the optical data into bits which are then transmitted to another device; col. 5, lines 3-28) such that it would have been obvious to an artisan of ordinary skill to incorporate such use of an optical sensor, as taught by Elmers, within the transfer device of Kominami as another means of receiving and transmitting user preference data.

7. Claims 7, 25, 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kominami in view of Otto (US 6,741,920 B1).

Kominami differs from claims 7, 25, 51 in that it does not specify the transfer device as comprising a key for operating the vehicle. However, Otto teaches the desirability of storing user preference data in a vehicle key (Abstract) such that it would have been obvious to an artisan of ordinary skill to incorporate the use of a vehicle key, as taught by Otto, as the transfer device in Kominami in order to simplify the step of communicating user preference data by combining the programming operation with the normal operation of inserting the key in the ignition.

8. Claims 13-14, 16-17, 31-32, 34-35, 44-45, 47-48, 57-58, 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kominami in view of Lutter et al. (US 6,778,073 B2, hereinafter "Lutter").

Kominami differs from claims 13-14, 16-17, 31-32, 34-35, 44-45, 47-48, 57-58, 60-61 in that it does not specify dragging icons to select preference data. However, as shown by Lutter (col. 3, lines 4-24), it is well known in the art to select automobile functions by dragging and

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dropping icons such that it would have been obvious to an artisan of ordinary skill to incorporate such a user-friendly means of preference selection, as taught by Lutter, within the system of Kominami when selecting the user preferences at website 52.

9. Claims 18, 37, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kominami in view of Yester et al. (US 6,775,603 B2, hereinafter "Yester").

Kominami differs from claims 18, 37, 49 in that it does not specify transferring data from the vehicle to the interactive site. However, Yester teaches a vehicle programming system in which information from the vehicle is downloaded to a portable personal data storage device for transfer to another system for analysis and recordkeeping (col. 2, lines 45-57) such that it would have been obvious to an artisan of ordinary skill to incorporate such transfer of vehicle data to the remote site, as taught by Yester, within the system of Kominami in order for remote analysis and recordkeeping.

Conclusion

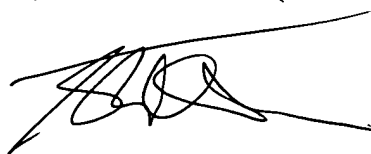
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Suda et al., Morehouse, Miller et al., Zanchi et al., Madau and Berstis show other relevant vehicle programming systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Stella L. Woo', with a long horizontal line extending to the right.

Stella L. Woo
Primary Examiner
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